IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2326 OF 2006
WITH
REVIEW PETITION NO. 138 OF 2006

Mr. Janak Narandas Paleja & Ors. ... Applicants.

V/s.

Mr. Uday Madhavsing Palichas & Others. ...Respondents.

Mr. Ajay S. Patil i/b. Mr. P.K. Dhakephalkar for the Applicants.

Mr. C.J. Sawant with J.J. Thakkar for Respondent Nos.1 and 2.

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CORAM : DR. D.Y. CHANDRACHUD,J.

6TH OCTOBER,2006.

P.C. :

1. In Civil Application No.2326 of 2006, the Applicants are the heirs of Respondent No.1 who expired during the pendency of the proceedings. The grievance of the Applicants is that the Petition was disposed of without service being effected on the Applicants. A similar grievance has been made in Review Petition No.138 of 2006 where the Applicants are also the heirs of Respondent No.1. When the Petition was taken up for hearing and final disposal, the Court was specifically informed that all the heirs had been served, by the Counsel appearing on behalf of the Petitioner and, on that basis, the Petition was taken up for hearing and final disposal.

2. Nw that the attention of the Court is drawn to the fact that some of the heirs of original Respondent No.1 were not served, the appropriate and proper course would be to allow the Review Petition and to recall the Judgment and Order of this Court dated 21st June 2006. The Judgment and Order dated 21st June 2006 is accordingly recalled.

3. Writ Petition No.7460 of 2003 is restored to file and shall be placed for hearing before the appropriate Court by the Registry according to the assignment of work.

4. In order to enable the Petitioners to move the regular Court, the order of status-quo shall continue to operate for a period of 2 weeks from today.

5. The Civil Application and the Review Petition are accordingly disposed of.